

MAY 30 2013

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT****IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**Nos. 12-90108 and 12-90109
ORDER

Before: **KOZINSKI**, Chief Judge, **WALLACE**, **THOMAS**, **FISHER**,
TALLMAN and **CLIFTON**, Circuit Judges, **BEISTLINE**, **KING**
and **WILKEN**, Chief District Judges, and **ISHII** and **McNAMEE**,
District Judges

Pursuant to Article V of the Rules for Judicial-Conduct and Judicial-Disability Proceedings under 28 U.S.C. § 352(c), complainant has filed a petition for review of the order of the Chief Judge entered on February 25, 2013, dismissing the complaints against two district judges of this circuit.

In the petition for review, for the first time, complainant alleges that a circuit judge conspired with the named district judges and others to defeat his underlying case and appeal. The Judicial Council will not consider new allegations or evidence not included within the misconduct complaint for which review is sought. Even if the Judicial Council did consider this new allegation, complainant provides no evidence for his conspiracy claim. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D). Further, Judicial-Conduct Rule 25 did not require the circuit judge to disqualify himself from participating in

this misconduct proceeding. See Judicial Conduct Rule 25(b).

We have carefully reviewed the record and the authorities cited by the Chief Judge in his order of dismissal. We conclude there is no basis for overturning the order of dismissal.

For the reasons stated by the Chief Judge and based upon the controlling authority cited in support thereof, we affirm.